

Agenda Item No. 6.1
For Agenda of 9.12.06



*Tigard City Council, City Center Development Agency and
Local Contract Review Board Meeting Minutes*

Date: August 8, 2006
Time: 6:30 p.m.
Place: Tigard City Hall, 13125 SW Hall Boulevard
Tigard, Oregon
Attending: Mayor Craig Dirksen Presiding
Councilor Sally Harding
Councilor Nick Wilson
Councilor Tom Woodruff
Absent: Councilor Sydney Sherwood

Agenda Item	Discussion & Comments	Action Items (follow up)
Study Session	The City Council Study Session was called to order at 6:30 p.m. by Mayor Dirksen.	
Study Session – Administrative Items	<p>➤ <i>Oregon Business</i> – Tour Host Proposal – September 2007 – Showcase Business Community</p> <p>Assistant City Manager Newton reviewed the information distributed to the City Council. The <i>Oregon Business</i> Road Tour will occur next year about the time of the City's "birthday." This is an opportunity for community's to showcase different aspects. Staff would put together a proposal and work on the event if selected. Due date for a proposal is September 8, 2006.</p> <p>Mayor Dirksen noted that during the League of Oregon Cities conference, the City of Tigard Downtown is one of the featured tour sites. Interim Community Development Director Coffee noted this is a four-hour event. Senior Planner Nachbar is coordinating this event.</p> <p>The <i>Oregon Business</i> Road Tour would be a citywide event and could include the industrial areas and Washington Square. Councilor Wilson said several businesses in the City of Tigard could also be featured. Mayor Dirksen suggested asking the Chamber of Commerce and Tigard businesses to partner on this or take the lead. Mayor Dirksen noted activities such as this are important, especially as Tigard tries to draw the attention of developers for the Downtown.</p>	Assistant City Manager Newton will contact the Chamber of Commerce to determine if they are interested in partnering or taking the lead in the <i>Oregon Business</i> Tour to be held in September 2007.

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	opportunities arise; i.e., the entrance from Hall to Dartmouth Street, the entrance at Pacific Highway and Dartmouth, and Pacific Highway and 72 nd Avenue.									
Executive Session	<p>Mayor Dirksen announced read the announcement for an Executive Session. The Tigard City Council went into Executive Session at 6:37 p.m. to consult with legal counsel regarding litigation likely to be filed under ORS 192.660(2)(h).</p> <p>Executive Session concluded at 7:22 p.m.</p>									
City Center Development Agency (CCDA) Meeting	<p>Chair Dirksen called the City Center Development Agency meeting to order at 7:30 p.m.</p> <p>City Center Development Agency Board Members Present: Chair Dirksen; Directors Harding, Wilson, and Woodruff</p>									
CCDA – Consider Adoption of the Tigard Downtown Implementation Strategy	<p>Senior Planner Nachbar presented the staff report. Minor changes to the Downtown Implementation Strategy were made.</p> <p>Senior Planner Nachbar said the document is intended to prioritize policy and actions for the downtown. The current version was presented at the June 24, 2006, workshop. The document has been endorsed and recommended for adoption by the City Center Advisory Commission at its June 14 meeting. The Strategy provides policy actions and a three-year action plan and a one-year work program. The work program contains specific projects and actions that the staff will take to carry out the Downtown Plan. CCDA adoption of the Strategy will set activities in motion. Some of the key projects for the year include developing a program for land assembly, marketing of the downtown, developing land use and design guidelines, preparing a Master Plan for Fanno Creek park and the public, determination of the feasibility of the Urban Creek Corridor, and refining the traffic circulation plan for the downtown. At the same time as work is being done on the above strategic planning projects, staff will be talking with property owners to build consensus on the overall strategy for the downtown.</p> <p>Chair Dirksen advised that the City Council, acting as the City Center Development Agency, has previously reviewed the Strategy and took part in earlier discussions. This is something the City Center Development Agency</p>	<p>Motion by Director Woodruff, seconded by Director Wilson, to adopt CCDA Resolution No. 06-01.</p> <p>The motion was approved by a unanimous vote of City Center Development Agency members present.</p> <table><tr><td>Chair Dirksen</td><td>Yes</td></tr><tr><td>Director Harding</td><td>Yes</td></tr><tr><td>Director Wilson</td><td>Yes</td></tr><tr><td>Director Woodruff</td><td>Yes</td></tr></table>	Chair Dirksen	Yes	Director Harding	Yes	Director Wilson	Yes	Director Woodruff	Yes
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	<p>has been reviewing for a considerable amount of time; tonight the Strategy is before the City Center Development Agency in its final form for approval.</p> <p>Director Wilson commented that in every endeavor that is as complex as this one is, there will be slightly different visions on how to approach a project such as this. Given the recent public issues regarding some of the conflicts experienced, Director Wilson pointed out that the issues were not with the substance of the program so much as it was management style. Director Wilson said he thought this was a good plan and that he hoped it is successful.</p> <p>Director Woodruff said it was great to see the substantive issues identified in the Plan. Previously, discussions have been in generalities; this Plan fleshes out some of the specific tasks and projects that can be done in the next one to three years. The Plan gives specificity and illustrations about what the Downtown could look like if everything comes to fruition. He urged people to view the Plan on the City's website.</p> <p>Councilor Harding concurred with comments already made. She said that the Community Development staff did a good job putting the document together. She encouraged the public to take a look at the Plan on the website to see how this will take shape. She also referred to previous public discussions regarding the Plan.</p> <p>Mayor Dirksen noted the Plan was posted online as part of the packet information for tonight's meeting. After adoption, the Plan will be posted on the City's website where it can be easily found. Assistant City Manager Newton said a few hard copies would be available for people who do not have access to the Internet and suggested they call and request a copy.</p> <p>Council considered CCDA Resolution No. 06-01:</p> <p>A RESOLUTION ADOPTING THE TIGARD DOWNTOWN IMPLEMENTATION STRATEGY AS THE DOCUMENT TO GUIDE POLICIES AND ACTIONS FOR REDEVELOPMENT OF THE DOWNTOWN</p>	
Adjournment of CCDA Meeting	Meeting adjourned at 7:36 p.m.	<p>Motion by Director Harding, seconded by Director Wilson, to adjourn the meeting.</p> <p>The motion was approved by a unanimous vote of City</p>

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		<p>Center Development Agency members present.</p> <p>Chair Dirksen Yes Director Harding Yes Director Wilson Yes Director Woodruff Yes</p>
City Council Business Meeting	<p>1.1 Mayor Dirksen called the City Council and the Local Contract Review Board to Order at 7:37 p.m.</p> <p>1.2 Council Present: Mayor Dirksen, Councilors Harding, Wilson, and Woodruff.</p> <p>1.3 Pledge of Allegiance</p> <p>1.4 Council Communications & Liaison Reports</p> <p>Councilor Harding reported that there was a Washington County Coordinating Committee Meeting on August 7, 2006. The County is discussing a Traffic Impact Fee. The City of Sherwood indicated the County was interested in possibly having their own Traffic Impact Fee in a different format. Several computation methods have been discussed. A gas tax has also been under consideration. The Corporate Business Alliance had a fairly successful trip to Washington DC as had, in the past, County Chair Brian and County Commissioner Rogers. The WCCC is discussing a two-day trip to Washington to DC as well as partnering with local businesses to lobby for transportation funds. JPACT will be meeting on Thursday, August 10.</p> <p>Mayor Dirksen advised that last week he attended an activity called "Envision Oregon" in downtown Portland. This workshop was hosted by a large group of organizations, which included the Oregon Homebuilders Association and 1000 Friends of Oregon. The workshop was put on for the benefit of the Governor's Task Force on Land Use. Mayor Dirksen noted that Steve Clark from Tigard and Lake Oswego Mayor Judie Hammerstad serve on this Task Force. Similar workshops are being hosted around the State of Oregon during this summer to gather input for the Task Force to use as they consider and make recommendations to the Governor and Legislature on land use, planning, and potential changes. This was a very "hands on" workshop whereby a lot of information, attitudes</p>	

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	<p>and views were gathered for use by the Task Force.</p> <p>1.5 Call to Council and Staff for Non-Agenda Items: None</p>	
2. Citizen Communications	<p>- Mark Padgett, 12974 SW Princeton Lane, Tigard, OR 97223, offered congratulations to the Mayor on his "imminent reelection."</p> <p>Mr. Padgett said he wanted to mention an issue that has come to the forefront because of what is now occurring in the unincorporated area. He said that both he and Councilor Wilson are former members of the City Planning Commission. The Planning Commission is mandated by State law, but the membership and makeup of the Planning Commission is under the purview of the City Council. Mr. Padgett noted that current Planning Commission members can include up to two people who do not live inside the City of Tigard. Mr. Padgett said the theory behind this was to have people who live within the "area of interest" be able to have some say in how planning is coordinated since that area would likely come into the City of Tigard; however, this is probably no longer the case. In general, this means that there could be people on the Planning Commission who do not own property within the City and are not City residents, sitting in on quasi-judicial hearings, making what is, in effect, law for the City of Tigard. Mr. Padgett said these land use decisions go into the Code and include Comprehensive Plan Amendments, which become part of the City Code. He said he does not think he is the only one who now feels uncomfortable with having people from outside the City who will either be in another City or remain in an unincorporated area making law for the citizens of Tigard at a municipal level.</p> <p>Mr. Padgett suggested the City Council change the Planning Commission membership policy and limit membership to property owners and/or residents of the City of Tigard. He said the Council might want to "grandfather" in the people who are now serving on the Planning Commission.</p> <p>Mr. Padgett said he did not feel "too badly" about city-owned property possibly ending inside the new City, because this property will require their City services without "us" contributing to their tax base. "So, let them see how it feels for a change."</p>	<p>Assistant City Manager Newton advised staff would review the wording with regard to Planning Commission membership and report back to City Council within the next two weeks.</p>

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	<p>Mayor Dirksen said he thought Mr. Padgett's point regarding Planning Commission membership was well taken. Councilor Wilson noted he wrote a letter recently to Representative Krummel and pointed out that Tigard has always had members from Bull Mountain on our Boards and Committees. He said he agreed with Mr. Padgett that it is inappropriate to have people from another City serving on our Planning Commission.</p> <p>Mr. Padgett noted he was especially concerned because the Planning Commission makes laws. Councilor Wilson said there has been a "sea change" in the Urban Services Agreement and a shift in 20 years of policy and it is time for us to catch up.</p> <p>- Gretchen Buehner, 13249 SW 136th Place, Tigard, Oregon, added to Mr. Padgett's comments that there are business and property owners within the City of Tigard who are not residents. She said that it was common for cities to allow people who own property who are not residents to serve on the Planning Commission.</p> <p>Ms. Buehner raised an issue regarding the Planning Commission. She noted that on tonight's Consent Agenda alternate Jeremy Vermilyea will be appointed to the Planning Commission. Mr. Vermilyea is the last alternate and it is likely the City will be losing one or two additional Commissioners by the end of the year. She recommended City Council direct staff to immediately begin looking for replacements. She added that it would be a good idea to name a couple of alternates so they can "get up to speed" before they are appointed. Mayor Dirksen said he has already started talking to the City's Volunteer Coordinator to publish an advertisement for applicants. Ms. Buehner suggested that membership be focused more on those who are "professionals" in the business. She noted the current public members are great members, but there is a need for members who have expertise in planning, legal, or architecture. Mayor Dirksen said he thought the Charter stipulates some requirements for membership and that the City Council would follow those guidelines.</p> <p>In response to a comment from Councilor Woodruff, Ms. Buehner said she would like to discuss how to retain Planning Commission members in a "different environment."</p>	

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	<p>- David Mielke, 600 Hidden Ridge, Irving, TX 75038, National Municipal Affairs Manager with Verizon introduced himself and Mr. Richard Stuart, Associate General Counsel for Verizon. Mr. Mielke said they would like to provide public testimony on Agenda Item 5 regarding revisions to the Tigard Municipal Code for a right-of-way usage fee. After brief discussion with the Council, Mayor Dirksen advised Mr. Mielke that he would be given an opportunity to speak to the City Council. In response to a question from Legal Counsel Firestone, Mr. Mielke advised he would only like to speak during Agenda Item No. 5; Agenda Item No. 6 did not propose changes to the Tigard Municipal Code that were of concern to Verizon.</p> <p>Councilor Harding asked a follow-up question regarding Mr. Padgett’s comments. She referred to his statement regarding the Planning Commission amending Code. Assistant City Manager Newton confirmed that amendments to the Development Code are placed before the City Council for final action; the Planning Commission forwards its recommendations on such amendments. Councilor Wilson noted the Commission does make quasi-judicial land use decisions, which are final unless appealed.</p>									
3. Consent Agenda	<p>Mayor Dirksen reviewed the Consent Agenda:</p> <p>3.1 A pprove Council Minutes for June 20, 27, July 6 and 11, 2006</p> <p>3.2 R eceive and File:</p> <p> a. Council Calendar</p> <p> b. Council Meeting Tentative Agendas</p> <p>3.3 D esignate the Planning Commission as the Comprehensive Plan Update Steering Committee – Resolution No. 06-46</p> <p>A RESOLUTION TO DESIGNATE THE PLANNING COMMISSION AS THE STEERING COMMITTEE FOR THE COMPREHENSIVE PLAN UPDATE PROCESS</p> <p>3.4 Appoint Jeremy Vermilyea to the Planning Commission – Resolution No. 06-47</p> <p>A RESOLUTION APPOINTING JEREMY VERMILYEA AS A PLANNING COMMISSIONER</p>	<p>Motion by Councilor Wilson, seconded by Councilor Woodruff, to approve the Consent Agenda.</p> <p>The motion was approved by a unanimous vote of Council present.</p> <table><tr><td>Mayor Dirksen</td><td>Yes</td></tr><tr><td>Councilor Harding</td><td>Yes</td></tr><tr><td>Councilor Wilson</td><td>Yes</td></tr><tr><td>Councilor Woodruff</td><td>Yes</td></tr></table>	Mayor Dirksen	Yes	Councilor Harding	Yes	Councilor Wilson	Yes	Councilor Woodruff	Yes
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	<p>3.5 Approve Budget Amendment #1 to the FY 2006-07 Budget to Increase Appropriations in the Sanitary Sewer Division for Purchase of a Replacement Backhoe – Resolution No. 06-48</p> <p>A RESOLUTION APPROVING BUDGET AMENDMENT #1 TO THE FY 2006-07 BUDGET TO INCREASE APPROPRIATIONS IN THE SANITARY SEWER DIVISION FOR PURCHASE OF A REPLACEMENT BACKHOE</p> <p>3.6 Approve Budget Amendment #2 to the FY 2006-07 Budget to Increase Appropriations in the Parks Capital Projects for Purchase and Installation of a Play Structure at Northview Park – Resolution No. 06-49</p> <p>A RESOLUTION APPROVING BUDGET AMENDMENT #2 TO THE FY 2006-07 BUDGET TO INCREASE APPROPRIATIONS IN THE PARKS CAPITAL PROJECT BUDGET WITHIN THE COMMUNITY INVESTMENT PROGRAM FOR PURCHASE AND INSTALLATION OF A PLAY STRUCTURE AT NORTHVIEW PARK</p> <p>3.7 Approve Budget Amendment #3 to the FY 2006-07 Budget to Increase Appropriations in the Water, Sanitary Sewer, and Stormwater Capital Projects for Funding of the Water Building Remodel – Resolution No. 06-50</p> <p>A RESOLUTION APPROVING BUDGET AMENDMENT #1 TO THE FY 2006-07 BUDGET TO INCREASE APPROPRIATIONS IN THE WATER, SANITARY SEWER, AND STORMWATER CAPITAL PROJECT BUDGETS WITHIN THE COMMUNITY INVESTMENT PROGRAM FOR FUNDING OF THE WATER BUILDING REMODEL</p> <p>3.8 Local Contract Review Board:</p> <ul style="list-style-type: none"> a. Award Contract for Design Services for Phase 2 (Commercial Street Streetscape) of the Tigard Downtown Comprehensive Streetscape Design to OTAK, Inc. b. Award Contract for the Construction of the Tualatin River Trail to RC Landworks, Inc. c. Reject Bids for the Construction of Hall Boulevard Sidewalk 	
4. Public Hearing	Mayor Dirksen opened the public hearing.	Motion by Councilor

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<p>(Quasi Judicial) to Consider the Annexation of the Rider Property (ZCA 2006-00001)</p>	<p>Legal Counsel Firestone read a prepared statement regarding the quasi judicial procedure to be followed for this hearing. Copies of this statement were available at the entry of the meeting room and a copy is on file in the City Recorder's office.</p> <p>Mayor Dirksen asked for Declarations or Challenges. Councilor Harding noted she has driven by the site. All members of City Council present indicated they were familiar with the application. There were no challenges from the audience pertaining to the Council's jurisdiction to hear this matter nor was there a challenge to the participation of any member of Council.</p> <p>Community Development Director Coffee introduced Associate Planner Eng who presented the staff report to the City Council. Ms. Eng advised the applicants were the Tigard-Tualatin School District 23J and Mrs. Alberta Rider, represented by Milstead & Associates. The applicants request annexation of 1.26 acres into the City of Tigard to connect to sewer. She referred to a map and noted the proposed territory, located on the south side of Bull Mountain Road and east of SW 133rd Avenue, includes one residential parcel with the address 13030 SW Bull Mountain Road. The proposed territory will be zoned R-7 upon annexation. The proposed territory is an island of unincorporated territory contiguous to the City of Tigard on four sides. The territory is adjacent to SW Bull Mountain Road on the northern boundary and borders the Alberta Rider School on three sides. ORS Chapter 222 provides for annexation of contiguous territory and of islands. Staff notified all affected agencies and interested parties as required, and received no objections to the proposal. Affected agencies, including City departments, did not indicate that serving the proposed territory would reduce their capacity to provide services to the entire City and to the unincorporated areas they already serve.</p> <p>Ms. Eng advised that the applicable review criteria are ORS Chapter 222, Metro Code Chapter 3.09, City of Tigard Comprehensive Plan Policies 10, Community Development Code Chapters 18.320 and 18.390.</p> <p>Staff reviewed the proposal for compliance with the applicable review criteria and found the proposal meets the criteria. Staff findings are detailed in the Staff Report, also referred to as Exhibit D.</p>	<p>Woodruff, seconded by Councilor Wilson, to adopt Ordinance No. 06-10, with the amendments noted by staff.</p> <p>Discussion on the motion followed. Councilor Harding asked about whether there was any way to prevent development should the property be annexed with the zoning as it is now. Community Development Director Coffee noted the annexation was being done to facilitate prevention of a potential health hazard on this property. The sewer connection was made with the understanding that the property would be annexed. The development of the property is separate from the act of annexation. It would be difficult to approve property limitations, which require negotiation with the property owner. Mayor Dirksen said he thought that because the property was already inside the Urban Growth Boundary and already zoned for urban development, whether it is annexed to the City or not would not impact the ability for the property to be developed. Legal Counsel Firestone agreed that the Mayor's statement was essentially accurate; when annexed it will have the City's zoning and arguably if it were left in the County it could be developed "more densely." Once annexed and within the City's jurisdiction, the City could participate in discussions about preserving the property as mentioned. Mayor Dirksen noted the City would especially be in a good</p>

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	<p>Ms. Eng advised there were two scrivener's errors on Page 2, Section 1 of the ordinance. The word "parcels" should be changed to "parcel."</p> <p>Public Testimony: Mayor Dirksen asked if there was a representative of the applicant present. A member of the audience indicated they were representing the applicant, but did not wish to speak.</p> <p>No public testimony was offered.</p> <p>Ms. Eng advised that the staff recommends approval of ZCA 2006-00001 by adoption of the ordinance Ms. Eng advised she had a copy of the corrected version of the ordinance for the City Council regarding the scrivener's error she noted earlier in her verbal staff report to the City Council. She identified the corrections on Page 2, Section 1, where two uses of the word "parcels" should be changed to "parcel."</p> <p>Mayor Dirksen closed the public hearing.</p> <p>Council discussion followed.</p> <p>Mayor Dirksen said the subject property has a house on it. The lady who resides there is a long-time resident of the Tigard community; in fact, her residence pre-dates the Tigard community and is a log cabin. Mayor Dirksen suggested that if the annexation is approved, the City approach Mrs. Rider to determine if she would consider having her residence named a historic building in the City of Tigard. He also said he would like to see this home preserved in perpetuity and to ask her for right of first refusal if at any time she wishes to sell her property so the City could acquire it to maintain as a historical property. Councilor Harding said she also thought of this and said she wondered how much interest the School District has in the property. Councilor Harding said it was her understanding that Mrs. Rider sold her property so that homes would not be developed. Councilor Harding said she was not really in favor of having this property zoned R-7. Mayor Dirksen asked if there was an alternative zoning that could be used, which would "come under the heading of preservation" to allow or require preservation. Community Development Director Coffee responded that if you get into historical designations for preservation you might encounter a problem, because you would deprive the owner of another use. Community Development Director Coffee said he would recommend the home be named</p>	<p>position if it could obtain the "right to first refusal" and thereby gain direct control to prevent any kind of development. Councilor Wilson noted that this is effectively the School District's property. Legal Counsel Firestone said that if the property is developed, it would likely be school oriented. Mayor Dirksen said it may well be that the School District would be interested in entering to a partnership with the City to create a historic site as it would make an excellent educational tool. This would be something for a future discussion. Mayor Dirksen said he thought the issue of development, whether the property is in the City or not, is moot as to its exposure to development.</p> <p>Mayor Dirksen asked if there was any further discussion. There being none, a roll-call vote was taken.</p> <p>The motion was approved by a unanimous vote of Council present.</p> <p>Mayor Dirksen Yes Councilor Harding Yes Councilor Wilson Yes Councilor Woodruff Yes</p> <p>Mayor Dirksen welcomed Mrs. Rider to the City.</p>

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	<p>as a historic structure and to seek the cooperation of the owner to preserve it. Mayor Dirksen asked that if the zoning were to be changed, then this would be putting a burden on the owner? Community Development Director Coffee said, "Right, the R-7 zoning is a standard residential zone. We don't have zones per se for preservation...this is probably the most efficient zone, given the circumstances. But, I think negotiations with the property owner would get you to where you want to go." Mayor Dirksen asked if the property owner were to consent to the historic overlay that in itself would preserve the property from development, would it not? Legal Counsel Firestone said it would not absolutely preclude development, but it would create a process for any changes. Mayor Dirksen said he would like to see the historic designation be pursued with Mrs. Rider's consent. Legal Counsel Firestone said it is his understanding that the School District would need to be involved in that Mrs. Rider retains a life estate. Mayor Dirksen recommended that a dialogue be begun immediately after the annexation is processed. Mayor Dirksen noted that Mrs. Rider is the namesake of the school property that surrounds her home and she is certainly a person of importance in the City of Tigard.</p> <p>Councilor Woodruff said that because annexation carries with it emotional tones these days, he asked for clarification from staff that this is a non-controversial annexation that has been requested by the owner and does not infringe on any other interests that people might have on this piece of property. Community Development Director Coffee said Mrs. Rider requested that her property remain outside of the City when the school property was annexed. Circumstances on the property have required her to request a sewer connection and that requires annexation. Mrs. Rider and the School District have consented to the annexation. Community Development Director Coffee noted the lack public comment tonight and no negative comments.</p> <p>Council considered the proposed ordinance:</p> <p>ORDINANCE NO. 06-10 – AN ORDINANCE ANNEXING 1.26 ACRES, APPROVING RIDER ANNEXATION (ZCA2006-00001), AND WITHDRAWING PROPERTY FROM THE TIGARD WATER DISTRICT, WASHINGTON COUNTY ENHANCED SHERIFF'S PATROL DISTRICT, WASHINGTON COUNTY URBAN</p>	

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	ROADS MAINTENANCE DISTRICT; WASHINGTON COUNTY STREET LIGHTING DISTRICT #1, AND THE WASHINGTON COUNTY VECTOR CONTROL DISTRICT									
5. Consider Revisions to the Tigard Municipal Code Incorporating a Right-of-Way Usage Fee	<p>Right-of-Way Administrator Werner reviewed the staff report.</p> <p>The ordinance will incorporate a right-of-way usage fee into the Tigard Municipal Code. The usage fee will be a fee for maintenance of the right of way by utilities where there is no franchise agreement in effect. The fee is set at the current franchise fee rate so it would be revenue neutral. Therefore, if a utility has a franchise fee it would be deducted from the right-of-way fee and no money would be owed. Exceptions would apply to City water and sewer, which are currently not paying a franchise fee; therefore, this will be a new fee. This ordinance would ensure payment to the City in the absence of a franchise agreement. Ms. Werner noted there now exists a couple of situations where there is no franchise agreement in effect, so this is a way to clarify that fees are to be paid if a franchise agreement is not in effect.</p> <p>Ms. Werner advised of additional issues addressed in the ordinance:</p> <p>1. The franchising and right-of-way use obligations – the current Code requires a franchise for utilities in the right of way. The amendment will clarify that if the utility is in the right of way without a franchise, they are subject to the provisions of the Code. If the utility does enter into a franchise agreement, the terms of franchise may vary from the Code; the franchise will “control.”</p> <p>2. Permitting and construction requirements. Previously, the City had a telecommunications ordinance that had some permitting and construction standards within it, and there was also a “work in the right of way” section that applied more generally with some inconsistent standards. All requirements are now being moved into one chapter so it will be clear about work in the right of way.</p> <p>Ms. Werner advised that staff has talked with many utilities on this matter. A draft of the proposed changes was sent to all of the current franchisees and other users of the right of way. Comments were received from Verizon, MCI, NW Natural, and Clean</p>	<p>Motion by Councilor Woodruff, seconded by Councilor Wilson, to adopt Ordinance No. 06-11 as amended. Councilor Woodruff clarified the amendment is the amendment read by Legal Counsel Firestone.</p> <p>Mayor Dirksen said that he thinks this ordinance will be of great benefit to the City as a way to utilize our existing rights of way in a more efficient manner.</p> <p>Motion was approved by a majority vote of City Council present.</p> <table><tr><td>Mayor Dirksen</td><td>Yes</td></tr><tr><td>Councilor Harding</td><td>No</td></tr><tr><td>Councilor Wilson</td><td>Yes</td></tr><tr><td>Councilor Woodruff</td><td>Yes</td></tr></table>	Mayor Dirksen	Yes	Councilor Harding	No	Councilor Wilson	Yes	Councilor Woodruff	Yes
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	<p>Water Services. Ms. Werner referred to an e-mail communication from Bruce Griswold of Clean Water Services, which is on file in the City Recorder's office. The Clean Water Services e-mail said:</p> <p>"It is the understanding of Clean Water Services that adoption of the revised Franchise Utility Ordinance now under consideration by the Tigard city Council will in no way impact the remittances otherwise due from the City of Tigard to Clean Water Services, under the current Intergovernmental Agreement between the two parties. It is the District's further understanding that the Franchise Fee and Right-of-Way Usage Fee (specifically sections 15.06.090 and 15.06.100) do not apply and will not be applied to Clean Water Services."</p> <p>Ms. Werner said the reason this would not apply to Clean Water Services is because special districts and County service districts are not subject to the franchising or the developer usage fee portion of the Code. In response to a question from Mayor Dirksen, Ms. Werner said she was in agreement with the above statement made by Clean Water Services.</p> <p>Councilor Woodruff noted the previous discussions on this matter. He referenced that by applying this to City water and sewer would allow a way for those funds to be used for operational purposes and to have more flexibility. He said it was his recollection that he said he would be in favor of this if it did not result in a rate increase to residents. He said he did not see anything in the proposed ordinance that says anything about not increasing sewer and water rates. Ms. Werner said it was her understanding that there will not be a rate increase immediately; in the future, it is a possibility. She noted it was her understanding that when this went through the budget process, no rate increase was intended to occur immediately. Councilor Wilson asked if Ms. Werner was saying that ultimately we will have some substantial infrastructure needs such as new water sources, etc., which would require the City to raise rates sooner than we would have without what is, in effect, a transfer of money to the General Fund.</p> <p>Councilor Harding said she thinks this is confusing because what Councilor Wilson is referring to is a right-of-way fee on the water utility. She said the reason for the provision is to shift money to the General Fund, and it would not necessarily be used for water infrastructure. While she said she was not really in favor of it, this Council authorized three water rate</p>	

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	<p>increases of 7 percent per year for the next three years. It does not appear that this will be enough and there will end up being water revenue bonding to pay for infrastructure needs. She says the way she looks at this ordinance is "when people say it frees up money, it doesn't free up money. What it does is add some fat or cream that we can move around in the General Fund. It wouldn't stay in the water fund; it wouldn't stay in these other funds. And, when we discussed it at this table before, I was concerned about water and sewer. And, I was told, 'Well, it's going to be revenue neutral, it's not changing.' So, yes, on this paper that we have here, it shows it will add a substantial increase...\$287,000 a year...it isn't necessarily a rate increase, but it is a fee on top of the rate, if you will. It goes to our constituency...just like the franchise fee..."</p> <p>Mayor Dirksen observed that the money would transfer out of the fund, but people's bill would not be raised. Councilor Woodruff noted that Councilor Wilson's point was that as water expenses increase, this would "add to that pot" and at some point, there will have to be a rate increase. The question is, if we do this, will the rate increase have to come sooner than it would without it. Councilor Wilson noted we carry a surplus; we have a fund balance that is carried over from year to year in the water and sewer funds because we will eventually have increases in costs. On the other hand, our General Fund is in a tighter situation and we have taken steps to enhance the General Fund revenues through fees and charges over the years. Eventually we will have to have a local option levy.</p> <p>Councilor Harding agreed with Councilor Wilson and noted that a \$287,000 increase will probably not negate the need for something "like that" and if we keep adding "all of these small little fees...I'm told I can't call a tax, but to me it's a tax, then when it comes time when we do really need...say...the constituency or electorate wants to have something for parks more than what we have through SDC's...what position does that leave us in? We have to look at the overall big picture..." Councilor Harding pointed out the property tax limitations, which affects funding at the state level and also impacts schools. She referred to densities, lack of infrastructure in schools, and that new people are subsidizing old. She said she thought most taxpayers would be more in favor of bringing parity and fairness to the tax base than to keep adding a bunch of new little fees. It is not something that will be solved "overnight." She said she was not in agreement or a</p>	

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	<p>"big fan" of this process – it's not as good as it could be. She also noted that Tigard is considering a gas tax.</p> <p>Mayor Dirksen said he thought there were several views on where revenue should come from. He noted the City convened a citizen task force several years ago to look at potential revenue sources. One of the questions we asked them first was, "Are we providing the right services – are we spending money where we shouldn't or are we spending money where we should?" The answer we got back was, "Yes, you are spending the money in the right places." And, when we asked them about when we do not have enough revenue for all those services, where should we go to get more revenue. When we suggested a bond or a levy, one of the things we heard from citizens was, "Before you go to that extent, look for other sources of revenue first and utilize all those sources first."</p> <p>Councilor Harding questioned whether they meant fees. Mayor Dirksen said this ordinance would allow transfer of money from funds to where those dollars can be used for right-of-way maintenance. Water and sewer activities have impact on streets and the right-of-way, but the money is tied up in those funds and is not usable for that maintenance. By charging our own utilities the same fee that we charge other utilities, it frees up that money so that it can be used to mitigate the impacts from those utilities. Councilor Harding pointed out that a lot of that will be passed back onto taxpayers and ratepayers.</p> <p>Councilor Woodruff asked if it was possible to separate the city utilities out from the ordinance to be considered separately and discussed. Mayor Dirksen and Councilor Wilson noted this has already been discussed. Ms. Werner said the discussion occurred during the budget meetings and the proposed ordinance is the means for implementing what was decided during the budget process. Legal Counsel Firestone affirmed for Ms. Werner that the two issues could be separated. Councilor Woodruff said he was in favor of doing this as long as it does not have a rate increase. He said, "I hear you say, 'Not immediately,' but that creates a little concern about what that means. There is nothing in here at all that says anything about that." Ms. Werner said she thought that if got to a point where a rate increase would be required, part of the discussion about whether to raise rates might be, "Do we want to amend the Code again to eliminate this, or reduce this?" She said she could not say there won't be any rate increases, but if it does get to that</p>	

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	<p>point there certainly is the ability to look at this and "lower it or eliminate it."</p> <p>Mayor Dirksen noted that when there are rate increases for water or sewer, the fundamental reason for those increases is because we are charged more for the sewer or water and we are forced to pass that cost through to our residents. The ability to utilize that money in a way that we need to use it in the City – that's the issue here. The issue is not whether or not people are paying more or less money. Mayor Dirksen said, "Whether you pay \$5 into the water fee or you pay \$5 into the General Fund for street maintenance, it's still \$5...paying it in to one or the other, there's no net difference to our citizens..." Councilor Wilson noted, "Except in the sense that by keeping it in the water fund, you are effectively putting it in the bank in a savings account and it won't be spent this year." Councilor Harding said, "You still have to add to it. Because you cannot skim off what is already set in that water rate and what's being collected." Mayor Dirksen agreed, at present we cannot. He said what was stated during the budget process, "...at this point there would be no need to increase the rate to cover this fee."</p> <p>Ms. Werner reiterated she does not want to say, "There will be no rate increase, because when this went through in the budget process, part of it was that this will not lead to a rate increase. If that changes...then that is something we can all look at and decide, 'Do we want to approve a rate increase; is the rate increase caused by this or is it some other outside force...' This is, again, a means of implementing the decision that was made in the budget process."</p> <p>Councilor Woodruff said he thought there was going to be a budget note or something in the ordinance that would highlight the fact that before there would be a rate increase, we would consider this again to see whether or not we wanted to continue that five percent fee. If there is a different Council when this issue comes up then there should be a re-discussion triggered about whether or not the five percent fee continues to be appropriate.</p> <p>Mayor Dirksen asked if Councilor Woodruff was recommending that a statement be added to the ordinance. Councilor Woodruff said he would have no problem voting for the ordinance if a statement were added.</p>	

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	<p>Councilor Harding said the ordinance gives the Council the authority to change the fees and do "whatever" without a vote of the people.</p> <p>Legal Counsel Firestone said amendment language could be prepared tonight and added to the ordinance that is before the Council for consideration. Another option would be direct staff to prepare draft language and delay Council consideration.</p> <p>After additional discussion, draft language was prepared by the City Attorney and presented to the Council later in the meeting as it considered the proposed ordinance.</p> <p>Mayor Dirksen asked Mr. David Mielke, Verizon National Municipal Affairs Manager to address the Council (see Citizen Communications). Mr. Mielke said he was accompanied by Mr. Richard Stuart, Verizon Assistant General Counsel. He noted Verizon representatives have reviewed proposed changes to TMC 15.06 and have several comments. He thanked Nancy Werner, Gus Duenas and Gary Firestone for their efforts and professionalism in working with Verizon in development of the ordinance. He noted appreciation for all of the assistance staff has provided in the last two years for their project in the City of Tigard.</p> <p>Mr. Mielke said they had several concerns about the proposed ordinance. The concerns are of a legal, operational, and practical nature. He asked Council to postpone any decision on the ordinance to afford City staff, Verizon, and other utilities additional time to resolve the concerns. He said they have been working on resolution of these concerns with staff and have language to present. Mr. Mielke addressed the following specific sections of the ordinance:</p> <ol style="list-style-type: none"> 1. Requiring a right-of-way user that has an expired franchise fee engaged in renewal negotiations to be subject to the terms of the ordinance. 2. The franchise application fee. 3. Lease capacity reporting requirements. 4. Audit, notice and fees. 5. Relocation. 6. Removal of facilities due to an expired franchise. 7. Notice for appeals in the curing of ordinance violations. <p>Mr. Mielke said under Section 15.06.050 which speaks of the franchise required, Verizon requests subsection 1</p>	

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	<p>be clarified in the ordinance to apply to any new entrants that have not previously had a franchise with the City and to not be applicable to entities that have an expired franchise, which is actively engaged in negotiations. Verizon has an expired franchise with the City and is abiding by the terms and conditions of the franchise, including payment of fees. Also, Verizon is engaged in franchise renewal discussions with the staff.</p> <p>Mr. Mielke said with respect to Section 15.06.190, the franchise application fee, Verizon is not subject to the required application fee because Verizon pays a privilege tax to the City; such application is expressly not allowed under ORS 221.515, which provides that the telecommunications carrier shall not be required to pay fees in addition to the privilege tax. Therefore, Verizon requests an exemption from the application fee in accordance with ORS 221.518.</p> <p>Mr. Mielke referred to the proposed ordinance Section 15.06.160, leased capacity. With respect to this section, Verizon asks for this section to be deleted as Verizon cannot provide this information since it would violate the confidentiality requirements of open contracts. The requirement is unrelated to the management of the right of way and is an attempt to manage the business operations of a telecommunications provider, and the requirement may also be pre-empted by the Oregon Public Utilities Commission.</p> <p>Mr. Mielke spoke to the issue of the duty to provide information relating to audit fees. Verizon requests modification of this section to require actual receipt of notice prior to the time period beginning for provisioning of records. With respect to audit fees, under Section 15.06.170 3.: The audits should be conducted by a disinterested party, not an audit firm whose compensation is tied to the outcome of the audit. Requirement of an entity to pay audit fees due to an alleged underpayment of fees may also bias an audit, especially if the audit fees are based on a percentage of the findings. In addition, Verizon believes that any audit fees exceed the requirement of ORS 221.515 as previously discussed and, therefore, should not be applicable to telecommunication carriers. As a compromise, Verizon offered alternative language where repeat offenders will not be subject to audit fees and first-time offenders that are not negligent or fraudulent will also not be subject to the fees.</p> <p>Mr. Mielke then addressed 15.06.260, relocation or</p>	

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	<p>removal of facilities. The requirements of this section are the most problematic to Verizon. Verizon has provided three alternatives to change this section. One alternative was based on a recently passed ordinance in Troutdale. Verizon recognizes its responsibility to relocate facilities for road grade, paving, repairing or improving. Verizon also recognizes responsibility to relocate its facilities for City-owned water and sewer facilities. However, under state statute and Oregon Public Utility Rules, Verizon does not relocate its facilities at its cost for aesthetic purposes or relocation for non-roadway structures, for relocations that are necessitated for the benefit of a private party or other proprietary nature – whether public or private – and for relocations resulting from the vacation of a right of way. As drafted, the City could request Verizon to relocate facilities at its cost, which Verizon has not previously been required. Verizon would have no choice but to oppose any such relocations. The requirement is unfair.</p> <p>Mr. Mielke said that under section 15.06.280, removal of abandoned facilities, Verizon and other utilities as providers of last resort are mandated by the Oregon Public Utility Commission to continually provide service whether or not a franchise has expired. Only the Oregon Public Utility Commission has the authority to require Verizon to remove their facilities in instances which would result in discontinuance of service within the City of Tigard. Any requirements of this nature by the City to remove facilities and discontinue service would be pre-empted by the Public Utility Commission's mandatory service requirements.</p> <p>Mr. Mielke referred to section 15.06.300, appeals, and 15.06.330, notice and cure. Verizon requests that these sections be changed by adding "receipt of" prior to notice in order to ensure that a utility has received the notice prior to the start of any time period. Alternatively, Verizon has requested the City add a requirement that these types of notices be sent by certified mail to ensure receipt.</p> <p>Mr. Mielke requests that the City Council postpone any decision on the ordinance until City staff, Verizon, and other utilities resolve these matters.</p> <p>Councilor Woodruff asked if all the suggestions presented by Mr. Mielke been reviewed by staff? Ms. Werner advised that staff has seen these suggestions and reviewed them with Mr. Mielke and the City</p>	

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	<p>Attorney. Legal Counsel Firestone confirmed these same issues have been raised and reviewed. Councilor Woodruff asked if the areas where the attorney thought there was room for compromise available have already been incorporated into the proposed ordinance. Ms. Werner said, "yes."</p> <p>Councilor Harding asked if staff didn't think it was appropriate to send certified mail. Ms. Werner said that this would be a good practice to have; however, she questioned whether it would be desirable to have it mandated within the Code. Councilor Harding noted there was another project on a street near her where it was a "he said, she said" situation and she does not think it is unreasonable to include this language requiring certified mail. This way, there is proof that they have been given notice.</p> <p>Mr. Stuart, Assistant General Counsel with Verizon, addressed the City Council. He said he represents Verizon throughout the western region and has been involved in a lot of issues where notices have been sent. He advised that they are a big organization and receipt of notice is sometimes a problem in that notices have been sent to the wrong addresses. In the past ten years he said he has been involved in two significant disputes and both centered on whether or not they had received notice. He said that had not received notice in either situation. Both matters were litigated and cost the City and a PUD a lot of money; ultimately Verizon prevailed in these cases. He said they are good citizens and abide by the rules. If they receive a notice about an issue, they will correct it. If they disagree, then they will talk to "you." When something is mailed and it is not received – it is a problem. When you mail by certified mail and get a returned receipt, you know that someone has received it. If you do not get a receipt back, then you know there is a problem. For a very small amount of money, you can make sure that the notice is received and eliminate problems that will follow if the notice is not received.</p> <p>Legal Counsel Firestone said that he and City staff have been reluctant to start the time period from receipt because, "We know when we send it, we don't always know when it's received...We've built in some additional time to the period so that it goes from the date the notice is sent, taking into account that it might take up to four days for it to be received." He said in his view it is problematical to start the period from receipt. If the Council wanted to required certified</p>	

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	<p>mail, then that is a different issue.</p> <p>Mayor Dirksen said he agreed with Legal Counsel Firestone, since there is no way of the City knowing when the receipt took place. Councilor Harding suggested there be follow up; for example, if the City has not heard anything within ten days, then she hoped that staff would initiate a follow up. She said there are times when items are not received for some reason.</p> <p>Councilor Wilson said he thought the request for certified mail was reasonable. Mayor Dirksen asked whether certified mail should be part of the ordinance or should it be a policy. Right-of-Way Administrator Werner said this a good practice to have with regard to sending certified mail, but by putting it into the Code then if something is sent by certified mail and received, it would then not be "proper notice." Contacts about any issue might be required to be sent as certified mail. Councilor Harding said she often sends items certified mail with a return receipt requested, so she then knows the item was delivered. Right-of-Way Administrator Werner said her personal practice is to send a certified mail notice. Councilor Woodruff noted that Verizon has a number of other issues Mr. Mielke cited tonight. He noted City staff has indicted these issues have been reviewed and there is disagreement. Councilor Woodruff said he did not think each issue should be debated. In response to an inquiry from Councilor Woodruff, Mr. Stuart advised they did not travel to Tigard from out of state for this issue only; they were in the area for other business reasons. He said he appreciated the opportunity to participate in the discussion on the ordinance before it is considered for adoption. He said they wanted to make sure that the City Council knew that Verizon was not in agreement with the ordinance in its entirety.</p> <p>Councilor Woodruff said that to some degree the whole reason for the ordinance is because the City has not been able to get a franchise agreement signed with Verizon. There are many complaints about contractors who do not do adequate work, which has led the decision to codify the requirements. Mr. Stuart responded that they had been involved with the discussions on this ordinance for quite some time. He said if there are problems with a contractor, Verizon wants to know about it. One way to assure they have been contacted is to send notice in a manner such as certified mail. Mr. Stuart said they were before the City Council tonight because they want to improve and</p>	

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	<p>maintain relationships.</p> <p>Councilor Wilson noted there are two issues. One is the fiber optics installation, which is disruptive; however he noted his appreciation to Verizon for selecting Washington County as one its first areas to serve. The other issue, and the bigger issue, is the concept of franchise fees in general and Verizon, more than any other utility has opposed franchise fees on principle. He said he is trying to determine whether the objections that were listed tonight – are they fine-tuning requirements or are they attempts to be obstructionist? This is a case where the City is looking at this ordinance because franchise fees are, next to property taxes, our largest source of general fund revenue. There are efforts underway, even at the national level, to preempt cities' rights to collect franchise fees thereby necessitating changes such as this to the municipal code.</p> <p>Mr. Stuart said they if their presence tonight is being perceived as being obstructionist, then he apologized. The purpose for being before the Council is to make a better, workable franchise. He advised there were no issues about Verizon paying the fees. He noted similar concerns expressed about city taxpayers paying for the fees if water and sewer utilities are charged a fee insofar as they would pass along these costs to the customer.</p> <p>Legal Counsel Firestone advised one of the main purposes of the ordinance was to clearly provide that the ordinance would apply to an expired franchise because the status is unclear once a franchise has expired. Application of the ordinance can be avoided by an extension of the old franchise agreement. Right-of-Way Administrator Werner noted that Verizon has "come to the table" to negotiate its franchise agreement; however, another telecom company has not responded to calls or letters.</p> <p>Legal Counsel Firestone said he disagreed with Verizon's interpretation that an application fee places a limit on the percentage of tax on certain types of income. He said that Verizon has a lot of sources of income.</p> <p>Legal Counsel Firestone commented on abandoned facilities. He said he did not think there was any intent to require an actively operating franchisee to remove facilities that are in use or likely to be use in the future.</p>	

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	<p>The removal of abandoned facilities provision was intended to apply when facilities are actually abandoned and will no longer be used. It might make a difference as to the specific location whether or not the City will require removal and there will be process in place for application of this section. Right-of-Way Administrator Werner advised an amendment had been made to this section in response to comments. Councilor Wilson asked for clarification in that he said it would probably be difficult to have a utility remove abandoned facilities since it is likely that the utility has gone out of business. He also asked why we would want to dig up roads to remove the facilities. Legal Counsel Firestone said it was understanding the City would have a different attitude – depending on whether the facilities were above ground or below ground. Right-of-Way Administrator Werner said there is a potential circumstance where there is “so much stuff” in the right of way and there is a need to remove what is not being used.</p> <p>Councilor Wilson asked about the requirement to relocate facilities. He noted there is a process where developers are charged a fee to underground utilities. Would this new language give the City the authority to require existing utilities to be placed underground? Right-of-Way Administrator Werner advised the proposed language is the language being used in the telecom ordinance. She advised that “relocation” is slightly different than “undergrounding.” Relocation is taking an aerial facility and moving it to another location where it still is an aerial facility or an underground facility is moved to a different underground location. There was discussion on relocation for aesthetic purposes. Right-of-Way Administrator Werner said the Code says the utility must relocate at their expense when it is necessary for public improvements or when it is otherwise in the public interest. She said that aesthetics might not be construed to be in the “public interest.” Mr. Firestone said, “Although that is usually the justification for undergrounding...aesthetics. But my understanding of Verizon’s concerns... ‘public interest’ is not sufficiently narrow. I think the main concern has to do with when relocations are required associated with development and when it is simply a City project. If it is a City project, my understanding is that Verizon has absolutely no concerns with the fact that they will have to relocate facilities. Their concern, as I recall, was when a development comes in and there’s also a City project and the two kind of happen together – question</p>	

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	<p>whether that's at the request of the developer, in which case the developer is responsible, or whether it's a City project, in which case Verizon and other utilities would be responsible for the cost of relocation. And, the City's position has traditionally been, if it's a development project, development pays. But, there is a certain amount of gray area that the City and Verizon has not been able to come to full agreement as to how to express it."</p> <p>Right-of-Way Administrator Werner said that the Code does say that if it is a private development, private development pays and the utility does not have move anything until a deposit is received for those expenses. Right-of-Way Administrator Werner reminded the Council that if a franchise agreement is reached, the terms can vary from the Code. Therefore, a utility has the ability to come and negotiate for a different provision. Ms. Werner confirmed Councilor Wilson's observation that if the ordinance is adopted, then "they can still then negotiate different terms." The most onerous, therefore, would be the Code language.</p> <p>Legal Counsel Firestone said that any major decision can be appealed. Mayor Dirksen said it appears from the way the Code language is written, the City would have to have a demonstrable need to compel a utility to move their facilities or it would be subject to challenge.</p> <p>Mr. Mielke said it would be tough to negotiate "downward" from the "most onerous" – the Code provisions.</p> <p>Councilor Woodruff asked if comments were received from other utilities and did others have similar concerns as Verizon. Right-of-Way Administrator Werner said MCI sent comments that were very similar to Verizon's comments. Comments were also received from NW Natural and some of those comments were incorporated in the language proposed in the ordinance. Ms. Werner said that she sent revisions of the language to all utilities that provided comments to give them a second opportunity to comment. Verizon was the only utility that "took advantage of that," which is why their comments were included in the City Council's packet information.</p> <p>Councilor Harding asked how much time the utilities had to respond. Right-of-Way Administrator Werner said she didn't remember the exact time. She asked Verizon if they had enough time to respond.</p>	

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	<p>Representatives indicated yes. Legal Counsel Firestone added that the process has been going on for a long time.</p> <p>Councilor Wilson agreed that this has been discussed for a long time, which is why he feels a little impatient. He said it might not be a bad thing to "try it out." Modifications can be made if something is not working.</p> <p>Councilor Woodruff urged the Verizon representatives to begin dialogue immediately to develop a mutually acceptable franchise agreement if the proposed ordinance is adopted.</p> <p>Mr. Mielke noted discussions have been started and then put on hold until after the modifications to be proposed to the right-of-way ordinance were made by the City.</p> <p>Mayor Dirksen advised this matter was now open for Council consideration. Legal Counsel Firestone suggested the following wording be inserted at the end of 15.06.100 2.:</p> <p>"The right-of-way usage fee percentage for water and sanitary sewer shall be reconsidered by City Council prior to any increase in City water or sanitary sewer rates."</p> <p>Councilor Wilson said that he would not vote "no" if the above language was added, but said these rates are reviewed each year during the budget process. Mayor Dirksen said he likes the idea of adding this language as said it would be a similar situation where a fee or tax is discontinued (sunset clause) or reviewed if it is to be retained.</p> <p>Councilor Harding observed fees rarely go away unless it is something like a bond measure that has been paid off.</p> <p>Mayor Dirksen noted his appreciation to the Verizon representatives for coming in to comment. If the comments were new and had not been considered previously and considered by staff and the City Attorney, then that would be worthy of further consideration. But, because this is not the case, the Mayor said he did not see any reason for the process to be delayed. Councilor Wilson said, It is immensely valuable to put a face behind the company...thanks for coming." Councilor Harding thanked Verizon for</p>	

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	<p>continuing paying the fee after the expiration of the franchise fee.</p> <p>ORDINANCE NO. 06-11 – AN ORDINANCE AMENDING AND RENUMBERING TIGARD MUNICIPAL CODE CHAPTER 5.14 AND TITLE 15 TO INCORPORATE A RIGHT-OF-WAY USAGE FEE AND CLARIFY FRANCHISE AND RIGHT-OF-WAY USE REQUIREMENTS FOR ALL UTILITIES.</p>	
6.Consider Revisions to the Tigard Municipal Code Incorporating a Right-of-Way Preservation and Restoration Policy	<p>Right-of-Way Administrator Werner presented the staff report.</p> <p>The proposed ordinance would incorporate a new policy to limit street cuts on streets that have been newly constructed, reconstructed, or improved within the last four years. Some exceptions would apply including emergency circumstances, when there is no other way to provide service to a customer, or when cuts are necessary to locate existing utilities when boring under the street. The ordinance could allow street cuts to be made in a protected street under compelling circumstances with conditions imposed by the City Engineer. Another amendment to this section of the Code would improve coordination of construction and prevent multiple large projects on a street within a 12-month period by limiting street cuts on any street, regardless of age, within 400 feet of a major utility installation or upgrade.</p> <p>The City Engineer would be required to set up some guidelines for creating standards for restoring the street if a cut has to be made if an exception is granted. The City Engineer would also be responsible for setting up a list of all streets that are subject to the restoration policy.</p> <p>Staff met with utilities (including Verizon, MCI, NW Natural, Comcast and PGE) on this proposal and sent them a draft ordinance. Some of the utility companies’ comments were incorporated into an amended draft. No comments were received on the amended draft.</p> <p>Councilor Woodruff noted he appreciated the work done by staff in response to community concerns. He said he would support its adoption.</p> <p>Mayor Dirksen said the proposed ordinance addresses an issue that has been a “thorn” for some time. He would support even stronger language, but this is a good place to start. Once it has been in place for awhile the City Council might want to revisit to determine if the</p>	<p>Motion by Councilor Harding, seconded by Councilor Wilson, to adopt Ordinance No. 06-12.</p> <p>The motion was approved by a unanimous vote of Council present.</p> <p>Mayor Dirksen Yes Councilor Harding Yes Councilor Wilson Yes Councilor Woodruff Yes</p>

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	<p>ordinance be strengthened without being overly restrictive.</p> <p>Councilor Wilson recalled the discussions about hiring a right-of-way manager. He told Right-of-Way Administrator Werner that he thought she has done a good job and noted his appreciation.</p> <p>Right-of-Way Administrator Werner advised the ordinance has a provision for a three-year review; therefore, after three years, the City Engineer will report on the implementation experience and whether it has been effective. Councilor Woodruff asked that this be monitored closely to determine if stronger wording is needed.</p> <p>ORDINANCE NO. 06-12 – AN ORDINANCE AMENDING TIGARD MUNICIPAL CODE CHAPTER 15.04 TO INCORPORATE A RIGHT-OF-WAY PRESERVATION AND RESTORATION POLICY</p>									
7. Continuation of Public Hearing (Legislative) from July 11, 2006 – Incidental Uses in Cultural Institutions Code Amendment (DCA 2006-00002)	<p>Community Development Director Coffee presented the staff report. He advised that the hearing was continued from the July 11, 2006 meeting, so staff could visit with potential vendors who might provide this service at the Library. This amendment will also apply to other uses within the community. Community Development Director Coffee said that they found out that the Finance staff had negotiated a lease with a vendor in late June. The vendor was aware of this proposed amendment and had no reservations about the sign limitations. The only question by the vendor was whether a temporary sign would be allowed during the opening days of the operation. Temporary signs are allowed for 30 days.</p> <p>Community Development Director Coffee said staff and the Planning Commission recommend City Council adopt the proposed ordinance.</p> <p>In response to a question from Councilor Woodruff, Community Development Director Coffee advised the vendor was not concerned about a sign.</p> <p>Mayor Dirksen noted he needed to officially open the public hearing (continued from June 11, 2006).</p> <p>Community Development Director Coffee reported the coffee vendor is interested in having signage within the Library lobby, which will be visible from the street</p>	<p>Motion by Councilor Wilson, seconded by Councilor Woodruff, to adopt Ordinance No. 06-13.</p> <p>The ordinance was adopted by a majority vote of City Council present.</p> <table><tr><td>Mayor Dirksen</td><td>Yes</td></tr><tr><td>Councilor Harding</td><td>No</td></tr><tr><td>Councilor Wilson</td><td>Yes</td></tr><tr><td>Councilor Woodruff</td><td>Yes</td></tr></table>	Mayor Dirksen	Yes	Councilor Harding	No	Councilor Wilson	Yes	Councilor Woodruff	Yes
Mayor Dirksen	Yes									
Councilor Harding	No									
Councilor Wilson	Yes									
Councilor Woodruff	Yes									

Agenda Item	Discussion & Comments	Action Items (follow up)
	<p>through the window. The vendor did not indicate any concern about signage near the road; although this would now be an option.</p> <p>Mayor Dirksen asked Legal Counsel Firestone a public hearing process question about declarations or challenges. Legal Counsel Firestone asked if there have been any changes since in conflicts or ex parte contacts since the previous hearing date. No conflicts or ex parte contacts were reported.</p> <p>Mayor Dirksen said that when he learned that the new vendor has no issue with the proposed ordinance he questioned whether there was a need to do the ordinance. The Mayor advised, however, there is another issue and noted that the Senior Center has a gift shop sign and this would now be in compliance if the ordinance is adopted.</p> <p>Community Development Director Coffee said the perception of the staff for Library and Finance is that this type of ordinance might be necessary to attract a vendor for this space. Legal Counsel Firestone said the provision is not specific as to what the sign says; it allows an additional sign on behalf of the lessee.</p> <p>There was no public testimony.</p> <p>Staff recommended that the City Council adopt the proposed ordinance.</p> <p>Mayor Dirksen closed the public hearing.</p> <p>ORDINANCE NO. 06-13 – AN ORDINANCE AMENDING THE LANGUAGE OF THE TIGARD COMMUNITY DEVELOPMENT CODE, CHAPTERS 18.130 AND 18.780, TO ALLOW INCIDENTAL AND SUBORDINATE CULTURAL USES IN CULTURAL INSTITUTIONS AND TO CREATE A “CULTURAL INSTITUTION AUXILIARY SIGN” CATEGORY (DCA 2006-00002)</p>	
<p>8. Consider an Amendment to the Tigard Municipal Code to Add a New Chapter 7.38 – Truancy</p>	<p>Police Chief Dickinson presented the staff report.</p> <p>This originally came about because a Tigard police officer encountered young people who were not in school who were supposed to be in school. Most of the time, the young people willingly returned to school. However, increasingly students are choosing not to return to school. Under state law, there is no fine or</p>	<p>Motion by Mayor Dirksen, seconded by Councilor Wilson, to adopt Ordinance No. 06-14.</p> <p>The motion was approved by a unanimous vote of Council</p>

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	<p>penalty attached to a child failing to regularly attend school; the proposed ordinance would remedy this for the City of Tigard. The King City City Council passed this ordinance recently and the Tigard-Tualatin School District has adopted the language in the proposed ordinance as district-wide policy. The City of Tualatin will also be considering this ordinance.</p> <p>The ordinance would allow police officers to take youth back to school or, if not back to school, the child would be returned to his/her parents or legal guardians. Police Chief Dickinson advised staff reviewed what other communities are doing to deal with this issue. Some communities have gone so far as to make an this an “offense”; however, in the City of Tigard the goal is to get children back into school or make sure their parents or guardians were aware of the situation.</p> <p>Councilor Woodruff said it seems reasonable to provide a tool to the police officers to help with truancy. He also noted that this is being responsive to the District who is partners with the City of Tigard. He noted his only concern was whether this would become a large part of the job that officers are doing and interfering with their ability to perform other law enforcement work. He suggested that the City Council receive a report on how this is working in the next several months regarding how much time is going into enforcing this ordinance. Police Chief Dickinson said it would be no problem to report this information to the City Council and added that the Police Department currently receives complaints from the neighborhoods if there are problems. He said enforcing the truancy ordinance would not be their first priority. This would be a tool used primarily by School Resource Officers.</p> <p>Assistant City Manager Newton said it may be that once it’s a policy of the District and the parents and students understand that this will be enforced, voluntary compliance may come about.</p> <p>Councilor Harding inquired about additional staffing for School Resource Officers. Police Chief Dickinson confirmed that one School Resource Officer was added, which was primarily driven by the increase of referrals received from the state DHS; this is one of the highest priorities for the School Resource Officers. Councilor Harding suggested this also be monitored as to cost and impacts on staff.</p> <p>Police Chief Dickinson described what is meant by the</p>	<p>present.</p> <table><tr><td>Mayor Dirksen</td><td>Yes</td></tr><tr><td>Councilor Harding</td><td>Yes</td></tr><tr><td>Councilor Wilson</td><td>Yes</td></tr><tr><td>Councilor Woodruff</td><td>Yes</td></tr></table>	Mayor Dirksen	Yes	Councilor Harding	Yes	Councilor Wilson	Yes	Councilor Woodruff	Yes
Mayor Dirksen	Yes									
Councilor Harding	Yes									
Councilor Wilson	Yes									
Councilor Woodruff	Yes									

Agenda Item	Discussion & Comments	Action Items (follow up)
	<p>term “protective custody” in response to a question from Councilor Wilson. Some cities would make violation of the truancy ordinance an offense, which would technically give a child a criminal history. Protective custody is a non criminal holding that allows police officers to take custody of a youth, but not place them under arrest. This is used in circumstances including run-aways or if a child is found in a dangerous situation. If the child is not with a parent in a dangerous situation, then the child can be placed with the parent or guardian. In some cases, the child is in a dangerous situation with the parents and in that case the child is placed in a children’s facility – not jail. Typically, protective custody is for a very brief time to place them in a facility where the child can be reconnected with their parents or to take the child to the parents. If it is a medical situation, a child could be taken to a medical facility. Protective custody is a “safekeeping” arrangement.</p> <p>Mayor Dirksen advised he was surprised to learn that a law such as this was not already in place and indicated he supported the proposed ordinance.</p> <p>ORDINANCE NO. 06-14 – AN ORDINANCE AMENDING THE TIGARD MUNICIPAL CODE TO ADD A NEW CHAPTER – 7.38 – TRUANCY</p>	
<p>9. New Funding Source Recommendations from the Transportation Financing Strategies Task Force</p>	<p>Transportation Financing Strategies Task Force Members Present: Gretchen Buehner, Chair; and Joe Schweitz Task Force Member</p> <p>City Engineer Duenas gave a brief staff report on this agenda item. About a year ago, the Transportation Financing Strategies Task Force recommended a local gas tax be implemented to finance projects. The City Council asked for a project to be identified that would likely be supported by the community. Since then, the Hall Boulevard/Highway 99W Project was started by the County. There is an opportunity at this time to do the Greenburg Road/Highway 99W/Main Street intersection, which has been discussed with City Council. Costs for this project were estimated and presented to the Transportation Financing Strategies Task Force. Members of the Task Force were introduced. A PowerPoint presentation on a proposed 3 cent gas tax was reviewed with the City Council and a copy is on file in the City Recorder’s office.</p> <p>Transportation Financing Strategies Task Force Chair Buehner advised that the Task Force has been meeting</p>	

Agenda Item	Discussion & Comments	Action Items (follow up)
	<p>for approximately two years to look at financing possibilities for transportation projects given the fact that gas tax revenues have been relatively flat. The cost of construction continues to go up. The Transportation Financing Strategies Task Force made a presentation to the City Council about a year ago recommending a local gas tax as probably the most fiscally prudent and logical method of raising a relatively small amount of money that could be used for a specific project. Ms. Buehner noted the City Council asked the Task Force to come up with a project.</p> <p>Ms. Buehner said the MSTIP project for Hall Boulevard is being engineered. The Task Force put together a proposal to add an additional turn lane coming from Greenburg Road to 99W that would separate the through and left-turn traffic. In addition the eastern-bound lane on 99W would be extended back beyond Main Street to allow easier right turns off of 99W onto Main Street. A separate left turn and through lane would be added for traffic coming from Main Street, turning onto 99W. It looks as if this project would be relatively cost effective and within the amount of money that could be raised with a local gas tax. This is also the project reviewed by DKS and OTAK and presented to the City Council.</p> <p>Ms. Buehner said that, as the Task Force had previously recommended, they were looking at the gas tax being modeled after the MSTIP process that has been so successful in the County. The funds from the gas tax would be used for a specific project. The tax would sunset in five years unless the City Council decided to extend it based on another project or series of projects. The gas tax would not raise sufficient funds to do a lot of projects. It will be an additional resource to do one or two very specific projects within a given time. Ms. Buehner said it would be clear as to the timing, the project and the amount of money for the project. In looking at nearby jurisdictions, Multnomah County has a much higher gas tax; therefore, the gas in Tigard is generally less expensive. Ms. Buehner said she did another survey around our area. A year ago, the variation between the 14 gas stations in Tigard was approximately 23 cents; it is now about 32 cents. The amount of the gas tax will not be that visible. Task Force Member Schweitz noted his support to go forward.</p> <p>Councilor Woodruff noted he appreciated the work the Transportation Financing Strategies Task Force has</p>	

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	<p>done. From a recent citywide survey, it is very clear that traffic is the No. 1 concern that people have – and 99W is the No. 1 problem with traffic. The proposed projects would have some effect on the concern and problem identified. Councilor Woodruff said the only question he had was what have the service station owners said about this prospect? Ms. Buehner responded that the Task Force will need to survey the service station owners. She said she contacted the state organization for service station owners and they would prefer that there be no tax. City Engineer Duenas noted it is difficult to find people who are “accountable” working at the gas stations; “these are absentee owners.” City Engineer Duenas said efforts would be made to contact the service station owners. Mayor Dirksen said that perhaps by bringing the issue forward, service station owners will come forward.</p> <p>Ms. Buehner pointed out that gas station owners need to get their customers into their stations. The more congestion that there is along 99W, Greenburg, etc., the less people there are likely to be to drive down the streets – they will look for other ways to travel. If the street is made better, she thought it would be “win-win” situation both for the driver and the businesses. She noted the timing issue with the Hall project going forward and it is possible that costs for the gas tax project could be reduced if it is done at the same time.</p> <p>Mr. Schweitz commented that the projects identified will improve the traffic situation and anticipates that we will gain citizens’ respect as the City works towards resolving the traffic issues. The Task Force supports going forward to “get something going.”</p> <p>In response to a question from Councilor Woodruff about process, Assistant City Manager Newton advised the next step will be for the Task Force to contact gas stations and discuss the proposed tax. City Engineer Duenas said a proposed ordinance will be brought back to the City Council for a Workshop discussion. He advised they will likely recommend an aggressive timeframe and targeting early October for City Council consideration. Councilor Wilson, who will be leaving office the end of this year, said that as a member of the Transportation Financing Strategies Task Force, he would like to be able to vote on this ordinance.</p> <p>Ms. Buehner also noted we did not want to miss the opportunity of coordinating the gas tax project with the County project at Hall/99W.</p>	

Agenda Item	Discussion & Comments	Action Items (follow up)
	<p>Councilor Wilson said he enthusiastically supports the gas tax. He said his only concern is whether three cents is enough. At one time, it was calculated that 30 million gallons of gasoline are sold within the City annually. City Engineer Duenas noted the estimate was derived by reviewing what other cities have experienced and then going mid-range for anticipated revenue.</p> <p>Mr. Schweitz noted the station owners don't collect the tax at the station. The tax is collected by the wholesaler. Everyone using the roads will be helping to pay for the projects. While he would rather not have another tax, he thinks people will stand behind it because everyone has been talking about the traffic problems for years.</p> <p>Ms. Buehner reiterated funds would be dedicated to a particular project. This addresses a City Council goal.</p> <p>City Engineer Duenas said that rather than wait for the Highway 99 study to be completed, this obvious project would complement the whole 99W project and provide better traffic circulation.</p> <p>Mayor Dirksen said there is a case where we have Task Force members who have become educated into the process, it almost turns into a situation where you have the "choir preaching to us." This does not necessarily mean that the "man on the street" will agree with this but instead will say that it's another opportunity for the government to put its "hand in my pocket." Mayor Dirksen said he thought there were many good arguments that make sense for a gas tax. This type of tax would spread the burden not just to City of Tigard residents but also to those who use our streets. If this were just coming to the City Council as an ordinance now without any public input, there would be no way he could support it. But, he was in favor to take it from this point, gather more information, and go through a public process. In the end, it might be that he is not in favor of the ordinance. Mayor Dirksen said that we need to move forward from this point through the process to determine if there is support for it. He recommended as part of the public process to have at least two public hearings.</p> <p>Councilor Wilson agreed with Mayor Dirksen and further suggested that the gas tax proposal and the project be viewed as one thing: "This is the project and this is how we are going to pay for it."</p>	

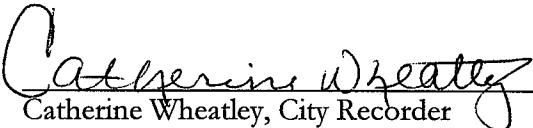
Agenda Item	Discussion & Comments	Action Items (follow up)
	<p>Councilor Harding said there is a need to have all of the electorate looking at one project. She said we still need to try to think of what direction Washington County might be taking as far as a gas tax. It is still on the table for the County. Councilor Harding gave some information, based on a scientific survey of County residents. Most believe that funding should be sought to cover the anticipated debt between system use and available funding. She said 46 percent of the respondents recommended making up some of the shortfall and 35 percent recommended making up all of the shortfall. Ten percent of the respondents were opposed to seeking additional funding for transportation, but 60 percent believe there is already too much funding and 40 percent believe allocation of current funds should be shifted generally transit to roads or vice versa. Councilor Harding confirmed for Mayor Dirksen that the "40 and 60 percent" was of the 10 percent referred to above. Several people identified fees relating to new development as most attractive; however, she said this isn't likely to happen and added that new people are paying the "lion's share." People would consider benefits of a proposed funding package along with a proposed funding source to determine whether or not it is attractive. Councilor Harding said this is exactly what we are talking about. County and City governments need to coordinate on any efforts on any funding initiatives, which is important because you do not want to have two gas tax votes on the ballot. However, Councilor Harding noted there has been a generalized consensus among other cities in Washington County that they would prefer it if Washington County does not do a gas tax because local revenues generated would serve cities better than if it was applied throughout the County. The County is still working on a formula for distribution among cities. Councilor Harding said, "...that we need to keep in mind as we...go forward with anything like this...we need to make sure we are coordinating and not...doing the same thing twice." She again noted the importance of sending representatives to Washington D.C. to lobby for transportation needs in this area as well as continuing to speak up for "our corner of the County." Mayor Dirksen noted his appreciation for Councilor Harding's work on the WCCC. He noted Councilor Harding made a good point about the need, through this process, to continue to coordinate with the County. The County has asked us the question, "Are people more interested in a local tax, or a County tax...we need to make sure we keep them apprised of what we</p>	

Agenda Item	Discussion & Comments	Action Items (follow up)
	<p>are doing here as well.” Councilor Harding noted the need to keep track of the history of that Committee to maintain good representation of this area of the County.</p> <p>Councilor Wilson said another thing to consider is that Tigard has the burden of a major state highway running through our community – the Highway 99 strip – and its legacy, which is the downside. The good side is we have more gas stations and the most people. It is not fair for us to bear this burden without also benefiting from the fact that we have these gas stations. Insulated communities off of these strips don’t have gas stations. In some ways, it is really only fair for us to go our own way on this issue.</p> <p>Councilor Harding said that Mayor Drake wasn’t excited about another MTIP because he felt that Beaverton was contributing more than they were getting back.</p> <p>City Engineer Duenas said that studies have shown that about 50 percent of the traffic is regional traffic. It will not be just Tigard residents who will be asked to pay for the proposed intersection improvements.</p> <p>Councilor Harding noted that people do not realize they can take I-5 to the Salem Parkway to the coast.</p> <p>Ms. Buehner said there is also a need to make sure the citizens understand this is a project where the City can coordinate with the County and ODOT and also save some money by combining efforts on the two projects. Ms. Buehner advised that the Transportation Financing Strategies Task Force requests that they go forward with its plan and recommendations and come back to the City Council with a draft ordinance in late October. Mayor Dirksen said he heard general support for the process in moving forward to see where this leads us. He said he thought we would be remiss to stop it at this point and not follow through to see what we will find at the other end. Mayor Dirksen noted this would take selling to the public as well as the gas station owners and the Council will be looking to the citizen Transportation Financing Strategies Task Force members to be the “front-line soldiers” to get the word out.</p> <p>Councilor Woodruff noted the past recommendation to identify the problem, identify solutions – paying for it with the users who are “creating the problem.” This</p>	

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	<p>is all a package with a sunset provision.</p> <p>Mayor Dirksen asked City Council if there was general support to move forward with the process. No objections were raised.</p> <p>Assistant City Manager Newton said a <i>Cityscape</i> page could be devoted to this matter.</p>									
10. Code Amendments to the Intergovernmental Agreements with Washington County (Urban Planning Area Agreement and Tigard Urban Services Agreement)	<p>Community Development Director Coffee presented the staff report on this item. This is a request by Washington County as they have proceeded with the petition to incorporate a city on Bull Mountain. The County staff has identified potential legal barriers with the Tigard Urban Service Agreement, which identifies Tigard as the ultimate provider of urban services in the urban services boundary in the unincorporated area, and the Urban Planning Area Agreement, which spells out how the area will be planned for the eventual urbanization with Tigard. As the agreements now read, there is a potential legal challenge to the incorporation of Bull Mountain because of inconsistencies. The County has asked the City if it would amend the agreements to indicate that should a city be incorporated within the urban services area, the City would be agree to amend the document to reflect that reality.</p> <p>Community Development Director Coffee advised that in previous communication with the County, we indicated we would be willing to do that. He referred to a letter from Mayor Dirksen, which was transmitted to the County on July 25, 2006.</p> <p>Councilor Wilson said it appears that the amendments have been written so that if Bull Mountain were to incorporate, this territory would be withdrawn from the existing agreements; however it doesn't terminate the agreements. Community Development Director Coffee affirmed the agreements would not be terminated. Councilor Wilson said it seems that there has been a "sea change" in the last six months in the thinking about the unincorporated areas of the County in general, which is independent somewhat from a Bull Mountain incorporation proposal. He said he wondered if it would make sense sometime near this juncture to reevaluate the entire agreements. Councilor Wilson noted the agreements are required, to some degree, by state law. This seems to be a worthy endeavor regardless of the outcome of the election to take up this issue with the County.</p>	<p>Motion by Mayor Dirksen, seconded by Councilor Harding, to approve the proposed amendments and authorize the Mayor to sign the amended agreements.</p> <p>The motion was approved by a unanimous vote of Council present.</p> <table><tr><td>Mayor Dirksen</td><td>Yes</td></tr><tr><td>Councilor Harding</td><td>Yes</td></tr><tr><td>Councilor Wilson</td><td>Yes</td></tr><tr><td>Councilor Woodruff</td><td>Yes</td></tr></table>	Mayor Dirksen	Yes	Councilor Harding	Yes	Councilor Wilson	Yes	Councilor Woodruff	Yes
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	<p>Community Development Director Coffee responded to Councilor Wilson that this could be done. Mr. Coffee said this could be brought back before the City Council in the future with an overall assessment of the agreements. Community Development Director Coffee said he is not sure whether these agreements apply to Metzger and an area near King City; Assistant City Manager Newton said staff will need to review these agreements.</p> <p>Community Development Director Coffee clarified that the proposed amendments before the City Council tonight were drafted by the County. Mayor Dirksen noted the amendments address Bull Mountain specifically.</p> <p>Mayor Dirksen said he assumes that if the incorporation measure were to fail, then these amendments would “disappear.” Community Development Director Coffee said the amendments would remain; however, they would not be relevant because they are applicable only if a new city is established. The City Council would not have to revisit the amendments for another decision.</p> <p>Mayor Dirksen said that, “It is perhaps beyond ironic that we be considering this tonight, when today was the day that the County made its final decision to place the incorporation on the ballot in November. And, in doing so, ignored the City of Tigard’s request that city-owned and controlled property be removed from that boundary. As was noted earlier, the City’s refusal to address these agreements could, in effect, legally stop the incorporation effort. The City would also be able to do so by claiming that the incorporation of the new City would place a burden upon the City of Tigard. We could also do so by appealing the boundary decision to Metro, which would stop the process at the present point, which would cause the deadline to be missed and it would not be able to be on the ballot in November. The City has that power at this point and has had it throughout the process. On the other hand the... Council has commented that in general we are in favor of the incorporation. In the face of this decision with regard to the boundary, it makes our cooperation more difficult. But, I think it is in our long-term best interests, and the best interests of all of the people involved, that we do not react in that way to cause that failure and that we move forward on the course that we previously told the County that we would take and that</p>	

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	<p>we would agree to the changes in the agreements. It can sometimes be difficult to stay on the high road, when you feel like you may be the only one that's there. But, I think that we need to retain that position regardless."</p> <p>Councilor Wilson thanked the Mayor for his statement. He said that one of his main concerns is the ability to provide park land in his neighborhood. The County's decision makes it more difficult for the City of Tigard; however, he agreed that the City Council should not stop the process.</p> <p>Councilor Woodruff said the amendments appear to be technical, but it is another indication of the City's efforts to continue to be a good partner with the County. He added that he was disappointed with the decision that the County made about the boundary.</p>									
Adjournment	The meeting adjourned at 10:07 p.m.	<p>Motion by Councilor Woodruff, seconded by Councilor Harding, to adjourn the meeting.</p> <p>The motion was approved by a unanimous vote of Council present.</p> <table><tr><td>Mayor Dirksen</td><td>Yes</td></tr><tr><td>Councilor Harding</td><td>Yes</td></tr><tr><td>Councilor Wilson</td><td>Yes</td></tr><tr><td>Councilor Woodruff</td><td>Yes</td></tr></table>	Mayor Dirksen	Yes	Councilor Harding	Yes	Councilor Wilson	Yes	Councilor Woodruff	Yes
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Councilor Woodruff	Yes									


Catherine Wheatley, City Recorder

Attest:

Mayor, City of Tigard

Date: 9.12.06
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